



Insurance Department

State of Utah

GARY R. HERBERT

Governor

SPENCER J. COX

Lieutenant Governor

TODD E. KISER

Acting Commissioner

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: April 14, 2014

Time: 9:25AM

Place: East Bldg, Copper Room

MEMBERS

COMMISSION MEMBERS

xChair, Kirk Smith, *Weber Cnty*

xMatt Sager, *Maricopa Cnty, AZ*

Co-Chair, Larry Blake, *Washington Cnty*

xSylvia Andersen, *Public Member*

xJeff Wiener, *Salt Lake Cnty*

DEPARTMENT STAFF

xPerri Babalis, *AG Counsel*

Brett Barratt, *Deputy Comm.*

xMark Kleinfeld, *ALJ*

xSuzette Green-Wright, *MC Dir.*

xTammy Greening, *Examiner*

xJilene Whitby, *PIO Recorder*

PUBLIC

Pete Stevens

Carol Yamamoto

Mark D. Emery

Joseph McPhie

David Moore

Blake Heiner

Scott Siler

Tige Garner

Wade Taylor

MINUTES

General Session: (Open to the Public)

- **Welcome** / Kirk Smith, Chair
About 9:25am Kirk welcomed everyone to the meeting and excused Larry, whose father had passed away.
- **Adopt Minutes of Previous Meeting**
Matt made a **motion** to approve the minutes, seconded by Jeff, vote was unanimous.
- **Reports**
 - **Concur with Licensee Report** / Tammy
Motion by Jeff to concur with the report, seconded by Matt, vote was unanimous.
 - **Concur with Complaint & Enforcement Report** / Suzette
April 2, 2014, actions are included in March's numbers. Jeff said he was unable to see where E-Case 3458 had been assigned an I-Case number. Suzette will check. **Motion** by Jeff to concur with report once the department has found I-Case number for E-Case 3458, seconded by Sylvia, vote was unanimous.
 - **Request for Dual Licensee Expedited Request:** None
 - **Request for Attorney Exemption:** None
- **Administrative Proceedings Action** / Mark Kleinfeld, ALJ
 - **Stipulation & Order:**
 - **Artisan Title Insurance Agency, Inc.,** E-Case 3430.
Did not file escrow charges as required. Between August 24, 2010 and October 1, 2013 there were 1,724 title reports prepared and 1,293 closings conducted. Department recommended a Forfeiture of \$1,500. **Motion** by Matt to concur. Jeff seconded motion and vote was unanimous.
 - **Coalition Title Agency,** E-Case 3431.
License lapsed from June 30 to July 10, 2013, during which time 36 closings were made. Recommended Forfeiture of \$1,500. Jeff made a **motion** to concur, seconded by Matt, vote was unanimous.
 - **Emery County Abstract and Title, Inc.,** E-Case 3445.
Investigation found dual licensing and unfair marketing practices violations. An

Emery employee received compensation while licensed as a mortgage loan originator and website contained inaccurate and possibly misleading information. Recommended forfeiture of \$1,500, with \$1,250 stayed if successfully complete 6 month probation. **Motion** by Jeff to concur and not stay the \$1,250. It was noted that no loans were originated or closed during this time. New **motion** by Matt to concur with stipulation, seconded by Sylvia, vote was unanimous.

- **Box Elder Land Title Insurance Agency, Inc., E-Case 3453.**

Licenses for agency and producer lapsed June 30 to October 10, 2013. During lapse 60 closings and 76 searches were conducted. Recommended Forfeiture of \$1,500.

Motion by Jeff to concur, seconded by Matt and vote was unanimous.

- **Bartlett Title Insurance Agency, Inc., E-Case 3454**

License lapsed September 30 to October 8, 2013. While lapsed 3 closings and 5 searches were conducted. License has lapsed three times previously. Forfeiture of \$3,000. Motion by Jeff to concur, seconded by Sylvia and vote was unanimous.

- **Request for a Hearing:** None

- **Order to Show Cause:**

Order to Show Cause hearing is set for April 29 regarding Robert L. Harrington and Community Title. These are related cases. Previous informal actions have not been complied with so an Order to Repeal each license is being prepared for:

- Robert L. Harrington
- Community Title

- **Informal Adjudicative Proceeding & Order:** None

- **Notice of Formal Adjudicative Proceeding:** None

- **New Business**

- **Discuss Rule Hearing for R592-2 Held prior to Commission Meeting.**

Joseph wondered if it was intentional that the amounts in the table under “Failure to charge or collect a correct premium...” and “Charging or collecting a non-filed required fee” were different. Jeff and Matt agreed they should be the same. Jeff made the **motion** to put current rule changes into effect then submit change increasing Individual fees for Charging or collecting a non-filed required fee to \$1,250 for the first proceeding and \$2,500 for the second proceeding. Motion was seconded by Matt, vote was unanimous.

- **Old Business**

- **Discuss Proposed Rule: Prohibited Escrow Settlement Closing Transactions / Jeff**

- It was noted that “/” should be replaced with “and” throughout rule.
- Matt asked if rule could impact commercial transactions. It is not limited to residential.
- Pete asked why there was no reference to the simultaneous closing addendum. He wants C buyer to be clear as to what is going on. Jeff noted that the bulletin has been in effect for some time. This rule does not change the transaction structure.
- Pete expressed concern that C funds not be allowed to fund A’s contract. Matt said the rule says you cannot use C’s money.
- Discussed the need for a disclosure requirement. It was determined that doing so would redefine a transaction. Jeff noted that if we include disclosure to the rule it would open it up to a whole new section that is not discussed anywhere else in the rule.
- Dave noted that in Section 5 it refers to an illustration. There are no illustrations in a rule. This reference should be deleted.
- Blake asked the meaning of, “stands on its own,” in Section 4. Jeff said that paragraph 4 defines that.
- Matt said to strike last sentence of Section 4. In section 5 delete illustrations.
- Strike last sentence of Section 4, “The above structure...” Already in R592-XX-2(2).

- Strike (See Illustration 2) from R592-XX-5.
- Jeff proposed next month that Boyd and Pete redefine land flip and creating definition for independent closing to incorporate 592-4(4). Jeff asked Pete to provide copy of Simultaneous Close Addendum to real estate purchase contract and Blake to provide definition language.
- **Motion** by Jeff to keep this on the agenda and wait until next month to discuss further, Sylvia seconded it and the vote was unanimous.
- **Williams Title Guaranty and Escrow Agency, Ltd, Inc.** / Suzette
 - Perri noted that no notice was sent to Garry Josephson or Williams Title regarding the Commission's failure to concur with the penalty in the Stipulation and Order, Docket #2013-110 PC. Perri requested a notice be sent to Garry and Williams Title.
 - Jeff asked what the process was if they don't concur. Perri said it appears there is no process. This needs to be fixed. There is no place on a Stip and Order to indicate non-concurrence.
 - Matt said Williams surrendered their license in November and signed the Stip. They are no longer conducting business in Utah. Jeff noted that until the Commission signs the Stip there is no valid Stipulation.
 - Matt made a motion to revoke the prior motion in November to suspend \$41,000 from the forfeiture of \$46,000. The vote at that time was unanimous four to zero. Instead the Commission will concur with the Stipulation and Order against Williams Title. Sylvia seconded the motion and a vote was taken. Matt and Sylvia voted for the motion and Jeff and Kirk voted against it.
- **Other Business**
- **Executive Session** (*Closed to Public*) Not needed.
- **Adjourn:** Motion by Matt to adjourn at 10:55am, seconded by Jeff.
- **Next Meeting:** May 12, 2014, Copper Room

2014 Meeting Schedule
(2nd Monday except in October)

Jan 13	Feb 10	Mar 10	Apr 14	May 12	Jun 9
Jul 14	Aug 11	Sept 8	Oct 20	Nov 10	Dec 8